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O. F. 7a

Department of L R & S

OFFICE Board of Rev

STATION Chepauk

Mis No. 2-070

Dated 22. 9. 25

Dated 24/9/25

To whom sent	Date	Initial.
	Given for copying	
	Copied	
	Examined	
	Signed	
	Given for despatch	
	Despatched 24/9/25	
	Indexed	
Pages in the file	To be destroyed on	

(SUBJECT.)

Encl. (8 Annas) :- Mangalore D.M-Go. 2442/25—
Encroachment - Defence - Sanctioned

* Not to be filled in the case of permanent records.

AS 343

Ref. on A3-5822-25. South Kanara Collector's Office,

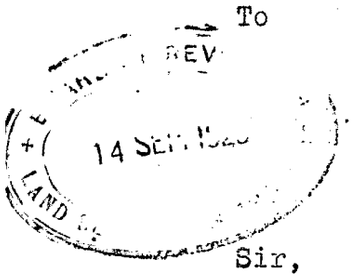
Mangalore, 8th September 1925.

From

G. W. Wells, Esquire, M.A., I.C.S.,

Collector of South Kanara.

To



The Secretary to the Board,

Land Revenue,

Madras.

Sir,

Suit - Mangalore - District Munsif's Court - O.S. 1925-242.

****

Plaint at ₹ 6-8 Cs.

I request the Board's sanction for the defence of the above suit which has been filed against Government by Dewan Bahadur A. Pinto, retired Deputy Collector for a ---- declaration that S.No.5/7E of Tannirbhavi vge belongs to him on warg right and other consequential reliefs.

Sc: Sketch at ₹ 10 Cs

2. The plaint plot is a portion, measuring 7 cents, of S.No.5/7 registered as poramboke Channel thodu. It was found by the Village Officers in 1924 to have been encroached upon by the Plaintiff the owner of the adjoining land 5/15B by converting it into a paddy field about 10 years ago. When questioned in the matter on 24th April 1924 he stated that he had not made any encroachment, that the plot was in the same state since 1921 when he purchased 5/15B and that it might be ---- included in his patta, if it fell outside his patta land. The Revenue Inspector who inspected the plot reported that though 5/7 was registered as thodu, a portion of it was ---- actually a Government pathway which was the old tappal road and which at present served as the main means of communication for Tannirbhavi villagers who transported merchandise such as fish manure, fish guano &c. to and from the factories at the sea-shore. He was of opinion that the encroachment by narrowing the pathway to an appreciable extent had greatly handicapped the fishermen of the village and was on that ---

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₹ 14 (F)

account highly objectionable. Two of the adjoining pattadars, Gangaya Pujari and Shitu also complained against the encroachment as having obstructed them in the use of the thodu and the mamool pathway. The Tahsildar accordingly on 28th June 1924 issued a notice under section 7 of the Land Encroachment Act to show cause why eviction should not be ordered. In response to this notice the Plaintiff submitted a petition to the Tahsildar alleging that the plot in dispute was in the possession of himself and his ---- predecessors-in-title for over 50 years and that it appeared as an encroachment only on account of wrong survey. The Tahsildar then inspected the plot and found that the trees on it were about 7 or 8 years old, that the mamool pathway had been very much ---- narrowed and that the encroachment was quite objectionable. He therefore, gave him a week's time to remove the encroachment. As the Plaintiff failed to comply with this order a penalty of Rs.5/- was ordered by the Tahsildar to be levied from him and a notice under section 6 of the Land Encroachment Act was issued by the Divisional Officer on 12th September 1924, requiring him to ----- remove the encroachment within 15 days. The Plaintiff then ---- filed a revision petition to the Divisional Officer, but it was dismissed on the ground that the Divisional Officer had no power to entertain it. Against this order he appealed to the Collector alleging that the plaint plot was his warg land, that the Survey was wrong and that the issue of the section 7 notice by the ----- Tahsildar was wrong. The Tahsildar to whom it was referred, --- reported that there was no survey mistake and that the encroachment was quite objectionable. He also forwarded a petition of some fishermen regarding an encroachment on the southern side of the thodu - the present encroachment is on the northern side - on which the Assistant Director of Fisheries had remarked that he was himself using the footpath for the last 12 years, that he --- found it growing narrower every year and that at the time of this report it was impossible to carry anything as headloads. He was of opinion that it was a clear case of high handed encroachment and deserved to be severely dealt with. The appeal was -------- accordingly dismissed by my predecessor Mr. Souter on 22nd December

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In the Court of the District Munsif of Mangalore.

O.S.No.242/1925.

Between

Dewan Bahadur Alex Pinto — Plaintiff

and

The Secretary of State for India in Council, represented by the Collector of South Kanara. — Defendant.

Written statement of Defendant under Order VIII Rule 1 of the Code of Civil Procedure.

Defendant above named begs to state as follows:

1. Plaintiff has no right of any sort to plaint property and the suit is unsustainable at law

2. Defendant denies that the plaint property 5/7E in the plaint plan ever belonged to Plaintiff and that Plaintiff and his predecessors-in-title have been in possession and enjoyment of the same for over the statutory period of sixty years before notice.

3. Defendant puts Plaintiff to strict proof of his ------ allegations in para III of the plaint.

4. The plaint property never formed part of Plaintiff's adjoining kadim land as such. It formed part of pathway used by the public.

5. The demarcation of the plot as forming part of S.No.5/7 is correct. Defendant denies that there are errors and that the demarcation is opposed to measurements.

6. In any case, this suit for declaration, more than six years after settlement and grant of pattas is unsustainable at law.

7. Defendant avers that as disclosed in the encroachment proceedings, the plaint plot was encroached upon without any right or title.

8. Defendant denies that trees on the plaint plot were cut down by the Revenue authorities against orders. They were so cut and sold in the ordinary course.

9. The trees found on the encroached portion were of recent

growth.

10. Defendant denies that the various acts done in ------- pursuance of the encroachment proceedings are illegal and ------ tortious and that undue advantage was taken of the wrong survey demarcation.

11. Defendant is not liable to restore the plaint property as claimed or to make good the alleged losses claimed.

12. The trees cut down and sold fetched only Rs.26-13-0 and Plaintiff in any case cannot claim more as damages. Plaintiff has over-estimated the loss and value of the plot.

13. Plaintiff is not entitled to any relief.

Prays therefore the suit may be dismissed with costs.

11.9.25
Collector

11.9.25

12 SEP 1925

M.D'S.9/9.

In the Court of the District Munsiff of Mangalore.

O.S.No.242/25.

Between

Dewan Bahadur Alex Pinto ... Plaintiff.

and

The Secretary of State for India in Council. ... Defendant.

Plaint under Schedule 1 Order VII Rule 1 of C.P.C

Plaintiff abovenamed begs to state as follows:

That the Plaintiff is the son of Joseph Pinto, and is a retired Deputy Collector, residing at Kodialbail, Mangalore Town. Plaintiff's address for the service of all notices and process is as above.

II. That the Defendant's address for service is through the Collector of South Kanara.

III. That the immoveable property described in the ----- Schedule A hereto, shown as S.No.5/7E and marked red in the -- accompanying plan, and hereinafter referred to as the plaint property, belongs to the Plaintiff and has been in the ------- possession and enjoyment of the Plaintiff and his predecessors-in-title for over the statutory period of 60 years prior to the institution of Land Encroachment Proceedings against ------ Plaintiff as a result of which Plaintiff has been evicted from the plaint plot on or about 20th January 1925.

IV. That the plaint property forms part and parcel of Plaintiff's Kadim warg consisting of paddy fields in S.No.5/15 and the Defendant has no right whatever thereto. As Plaintiff has come to know after the said encroachment proceedings the plaint property has been wrongly demarcated in the last survey and settlement as part of the poramboke channel numbered ------ S.No.5/7. The said demarcation of the channel is incorrect and illegal, the natural channel (5/7A in the plan) occupying but a small portion of S.No.5/7 as shown therein. The survey demarcation of the rest of Plaintiff's fields in 5/15A (vide

Plaint Plan No. 1

plan) as well as of the entire surrounding locality is full of errors and opposed to the measurements on the land.

V. That the allegation of the Revenue authorities in the said encroachment proceedings that the plaint property was encroached upon by the Plaintiff from the channel and added on to his fields is untrue. On the other hand the plaint property has all along been, as aforesaid in the enjoyment and possession of the Plaintiff and his predecessors-in-title and cultivated as a part of a paddy field.

VI. That the appeal of the Plaintiff in the said ------ proceedings was dismissed by the Collector on 22nd December - 1924. The Plaintiff having thereupon applied for stay of the eviction, the Collector granted the stay but in spite of it the Revenue Officials, on or about 20th January 1925 took possession of the plaint property, cut down and removed valuable trees thereon, amongst which were some old trees and tree stumps which would have furnished valuable evidence for the Plaintiff's case, and have since then been filling up the plaint property with earth to convert it into a pathway.

VII. That the various acts of the Defendant are illegal and tortious and have been done by taking an undue advantage of the wrong survey demarcations as aforesaid. The Defendant is liable to restore the plaint property to the Plaintiff and make good the losses suffered by him as detailed hereunder.

VIII. Similar and almost simultaneous encroachment proceedings have been carried on in respect of plots 5/7D and 5/7C (vide plan) against the owners thereof and Plaintiff learns that suits will be filed against the Defendant for recovery of the same.

IX. That the Defendant has been served with proper and sufficient notices of the suit as required by law on 14th January 1925 and 4th April 1925, respectively.

X. That the cause of action arose on or about 27th January 1925 and since in Tannirpnavi village within the ---- jurisdiction of this Court.

XI. That the value of relief sought for is Rs.610-0-0 for purposes of jurisdiction and of Court fees.

Plaintiff therefore prays for a decree against the Defendant for the following:-

(i) For a declaration that the plaint plot belongs to Plaintiff (on warg right) and directing the Defendant to surrender ----- possession of the plaint land to Plaintiff. Valued at its probable market value	Rs.300- 0- 0
(ii) For value of the trees cut (for details see Schedule B infra.)	Rs.250- 0- 0
(iii) Directing the Defendant to restore the plaint property to its former state by removing the earth etc. and on his failure to do so, directing the Defendant to pay the probable cost of getting the same done through process of Court.	Rs. 50- 0- 0
(iv) For mesne profits at Rs.12-0-0 per annum from 27th January 1925 till 22nd June 1925.	Rs. 6- 0- 0
(v) Future mesne profits at Rs.15-0-0 per year till delivery of possession.	
(vi) Cost of registered notices.	Rs. 4- 0- 0
Total:	Rs.610- 0- 0

(vii) Future interest at 12½% on the relief's (ii) to (iv). supra.

(viii) Costs of suit with interest at 6% per annum. And for such other and further relief as the Court may deem fit to --- grant in the circumstances of the case.

Schedule A: of plaint property.

Taluk & village.	S.No.& Sub-division.	Description.	Extent. A.	C.	Remarks.
Mangalore Taluk. Tannirbhavi village.	5-7E	Manja.	0	7	Shown as 5-7E in the accompanying plan & marked red.

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Schedule B:	Number.	Value of trees.
1. Casurina trees	30	Rs.180- 0- 0
2. Honne trees.	2	25- 0- 0
3. Do.(small).	10	20- 0- 0
4. Mango trees.	2	20- 0- 0
5. Stumps of old Kuntala trees.	2	5- 0- 0
	Total:	250- 0- 0

/True Copy/

11/9 Collector

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[illegible] 10

12 SEP 1925

H.D'S.9/9.

Date of hearing 29.9.25

Subject.—

R. F. XXII-A-19.—18,003—12-12-24.

~~FOR MEMBER~~

Suits (S Kanara) Mangalore D.M- Co. 242/25- Encroachment - Defence Sanctioned

READ AGAIN B.P No. _____ dated _____ 192

" " _____ " " _____ 192

READ ALSO :—

Register No 46378. ~~From the~~ G _____, No. _____, dated _____ 192

_____ " " " _____ " _____ " _____ 192

" " _____ " " _____ " _____ " _____ 192

RESOLUTION. (Mis) No. 2070, dated 22.9.25

The Board sanctions the defence of the suit and approves the draft written statement submitted by the Collector subject to the following modification.

For the existing para 3 of the statement substitute the following

"This defendant denies the truth of such of the allegations in the plaint as are not expressly admitted herein and puts the plaintiff to strict proof of the same"

To the Collr of S Kanara with Records